

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Anthony B. Burnside, #259648,)	
)	C.A. No.: 6:06-423-HMH-WMC
Plaintiff,)	
)	OPINION & ORDER
vs.)	
)	
J. Davida Mathis,)	
)	
Defendant.)	

This matter is before the court with the Report and Recommendation of United States Magistrate Judge William M. Catoe, made in accordance with 28 U.S.C. § 636(b) and Local Rule 73.02 DSC.¹ Anthony B. Burnside (“Burnside”), a state prisoner proceeding pro se, filed a complaint pursuant to 42 U.S.C. § 1983. Magistrate Judge Catoe recommends Burnside’s claims be dismissed without prejudice and without issuance and service of process and, furthermore, that this case be deemed a strike pursuant to the three strikes rule set forth in 28 U.S.C. § 1915(g). In response, Burnside filed a document captioned a “Traverse” which the court will treat as objections to the Report and Recommendation. For the reasons below, the court adopts the Report and Recommendation and dismisses Burnside’s complaint.

Objections to the Report and Recommendation must be specific. Failure to file specific objections constitutes a waiver of a party’s right to further judicial review, including appellate review, if the recommendation is accepted by the district judge. See United States v.

¹ The recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. See Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

Schronce, 727 F.2d 91, 94 & n.4 (4th Cir. 1984). In the absence of specific objections to the Report and Recommendations of the Magistrate Judge, the court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After review of Burnside's objections, the court finds that they are patently without merit and fail to address the reasons for summary dismissal outlined in the Magistrate Judge's Report and Recommendation. Further, Burnside's request in his objections to amend his complaint is denied because the proposed amendment would be futile. See In re PEC Solutions, Inc. Sec. Litig., 418 F.3d 379, 391 (4th Cir. 2005) ("Leave to amend need not be given when amendment would be futile."). Therefore, the court adopts the Magistrate Judge's Report and Recommendation.

Therefore, it is

ORDERED that Burnside's complaint is dismissed without prejudice and without issuance and service of process. It is further

ORDERED that this dismissal is considered a "strike" pursuant to 28 U.S.C. § 1915(g).

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
March 15, 2006

NOTICE OF RIGHT TO APPEAL

The plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.